

**TIVERTON PLANNING BOARD
MINUTES OF MEETING
February 4, 2014**

Chairman Stephen Hughes called the regular meeting of the Tiverton Planning Board to order at 7:00 P.M. at the Town Hall, 343 Highland Road. Members present were: Vice Chairman Stuart Hardy, Patricia Cote, Rosemary Eva, Carol Guimond, David Holmes and Peter Moniz. Peter Corr and David Saurette were absent.

Also in attendance were: the Planning Board's Clerk and Administrative Officer Kate Michaud, Planning Board's engineering consultant Deirdre Paiva of Commonwealth Engineers and Consultants and the Planning Board's Solicitor Peter Ruggiero, Esq. and his associated David Petrarca, Esq.

1. Main Road Properties, Inc. – c/o Rosalind Weir – PO Box 98 – Adamsville, RI 02801 – Zoning Map Amendment Required to Change District from R-80 to VC (Village Commercial) – Referred by Town Council on January 13, 2014 for Planning Board Findings and Recommendation (See: Zoning Ordinance Article XIX, Section 2) – Plat 706 / Lot 106 (3838 Main Road) and Plat 706 / Lot 107 (3842 Main Road) – E/S Main Road, North of East Road – ZA01-14 – Timeclock = 45 Days (February 27, 2014) Owner Rosalind Weir and attorney Timothy More were present representing Main Road Properties, Inc. Ms. Guimond recused herself and left the table. The Chairman noted that this was not a public hearing and that the Board would listen to information and then discuss the request amongst themselves.

The Chairman read the requirements of the applicant from Zoning Ordinance Article XIX and noted that the abutters' list and radius map were missing. Mr. More stated that that information had been received and would be submitted. Mr. Hardy stated that he was generally in support of the petition, but concerned that the floodgates could be opened to other property owners wishing to be included in the Village Commercial (VC) District. He expressed his concern about approaching rezoning in a piecemeal manner and he asked Mr. Ruggiero if this application would set a precedent. Mr. Ruggiero stated that anyone could apply for a zone change and that each application must be evaluated separately. He also noted that petitions must be found to be in compliance with the Town's Comprehensive Community Plan and that it would be very unique to have identical situations for different applicants. Mr. Ruggiero summarized that it was the Planning Board's decision to make.

Mr. More stated that legislation tended to be a discretionary act, not a judicial act such as that of the Zoning Board. He opined that the Town Council has much more leeway.

Ms. Eva stated that she had concerns about the petition: citing environmental fragility of the area, (i.e. its location within the Nonquit Pond Watershed and one parcel being the site of a former electrical substation), traffic and parking. She stated that she was especially concerned about traffic. Mrs. Weir acknowledged that the farm stand (Milk & Honey – 3838 Main Road) was previously the site of a Narragansett Electric substation, and that the other property (3842 Main Road) was formerly home to a graphic design business and was now mixed-use (office/retail and residential). She stated that a high-tech and expensive septic system had been installed to service 3842 Main Road and that there were no water issues on either property. She stated that the lots were lower in elevation and that water drained to the properties and not away and that they were not near Nonquit Pond. Ms. Eva asked if the lot formerly used by Narragansett Electric had been tested for contamination or possible PCBs. Mrs. Weir did not answer. Ms. Eva also stated that there was a cemetery located behind the house [on 3842 Main Road] that had disappeared. Mrs. Weir stated that she was unaware of a cemetery.

Mr. Moniz stated that the Board had previously looked at the Village Commercial District and surrounding area for possible zoning changes with no resolution. He stated that he was in favor of rezoning these two parcels, but questioned if the Board should address the whole area once and for all. He asked if there was an urgent need to address these lots at this time. Mrs. Weir replied that the properties were on the market and noted that the Village Commercial District has an existing set of guidelines that would be extended to these properties. She

also noted that artists within the Village Commercial District could sell tax free, which would benefit the tenants. Mr. Moniz stated that he thought that the State law had been amended to make all original art tax free.

Mr. More stated that he was concerned about the length of time that it would take to address the whole area. He stated that these were two small properties and these were the only properties owned by Mrs. Weir that were not within the Village Commercial District. He added that the uses already existed and opined that there was an extensive list of controls on the Village Commercial District properties. Mr. More stated that Historic District Zoning was also under consideration for the area, which would impose a whole new set of restrictions.

Mr. More stated that the Town Council and Planning Board make informed decisions based on particular properties. He opined that it would be appropriate to proceed, adding that they would prefer not to be part of a larger rezoning effort.

Ms. Eva inquired about the dimensions and size of the lots, as well as lot coverage and the impervious area. The Chairman stated that that information would be on the plan to be supplied. Mr. Holmes noted that there are other commercial properties to the south that were not within the VC District. He asked if including the lots would enhance the owners' ability to use them. Ms. Eva stated that there had been much controversy over the uses on these particular lots in the past. Mr. Holmes opined that it probably made sense to include the subject lots in the VC District and that he did not know if there was any merit in waiting for a larger rezoning. Ms. Cote asked if rezoning these lots would open up the issue of expanding the VC District to the south.

The Chairman asked the applicant to supply information regarding the current use of the parcels and the proposed use, if any. He stated that he would like to see a lot layout plan, including the buildings and septic information. Mr. Ruggiero briefly discussed "grandfathered" and pre-existing nonconforming rights. He stated that if the same use was continued, no further permitting would be required.

Ms. Eva expressed concern regarding parking. She stated that if parking was insufficient, vehicles would be parked on Main Road. Mrs. Weir disagreed, stating that easements could be put in place prior to a sale of the property to allow for shared parking. Mr. More stated that the applicant was cognoscente of the parking issues; noting that Milk and Honey lot (3838 Main Road) provided one or two spots of parking for the Union Public Library. He added that a new lease had just been signed for Milk and Honey and that the current use would be continued.

Mr. Holmes expressed concern about the amount of information that needed to be submitted. The Chairman noted that the next meeting was scheduled for March 4th and that the time clock for this petition would expire on February 27th. A discussion ensued with the applicant agreeing to waive the time clock. Mrs. Weir stated that she would work with her surveyor to provide the plans. It was determined that plans must be submitted by February 18th.

Mr. Hardy made a motion to continue this petition to the March 4th meeting with materials to be submitted by February 18th. Ms. Cote seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Mr. Holmes and Mr. Moniz voted in favor of the motion. Ms. Guimond returned to the table.

2. Campanelli Properties of Tiverton, Inc. – c/o Jeremiah Leary, Esq. – 1340 Main Road – Tiverton, RI 02878 – Extension of Existing Letter of Credit (No Reduction Requested) - \$428,000 – New Expiration Date: 9/27/2014 – Cottrell Farms Major Subdivision (Roads Required) – W/S Fish Road, South of Route 24 – Cottrell Road, Alexandra Circle – R-40 Zoning District No one was present on behalf of the petition. The Chairman stated that a letter from the bank (Cambridge Savings) had been received. The letter was dated January 30, 2014 and the letter of credit had been extended to September 27, 2014.

Mr. Hardy made a motion to approve the extension of the existing letter of credit to September 27, 2014. Mr. Moniz seconded the motion. The motion passed 6-0-1. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Guimond, Mr. Holmes and Mr. Moniz voted in favor of the motion. Ms. Eva abstained.

2. Town Planner & Administrative Officer

A. Administrative Officer's Report Ms. Michaud's report was distributed.

B. Construction Update:

- 1. Stafford View Farm** Ms. Paiva reviewed the progress at Stafford View Farm, noting that the trees had been cut but no grubbing had been done. She stated that hay bales were on site but had not been installed yet.
- 2. Tiverton Public Library** Ms. Paiva stated that work was ongoing on pouring walls and backfilling. Stone crushing operations on site were ongoing.

C. Town Planner Items

1. Challenge Grant Project

a. Request Filed by Catherine Leger-Godek to Include Plat 119 / Lot 108 (1019 Main Road) in the Commercial Zoning District as Part of the Main Road Challenge Grant Project

Catherine Leger-Godek was present. The Chairman noted that the subject lot located at the corner of Carey Lane and Main Road contains a fire extinguisher business. Maps of the site were distributed. He noted that the lot was zoned Industrial until 2001 when it was rezoned to residential (R-40). The location was discussed. The Chairman noted that this lot was contiguous to the Challenge Grant study area, opining that it probably never should have been rezoned to residential and should be included in the commercial zone. Ms. Godek noted that the use had been commercial since 1938. Ms. Eva opined that rezoning this lot to commercial would "stick out" and it would have no connection to other commercial property. Mr. Moniz disagreed. Ms. Eva requested a written opinion from the Cecil Group. Mr. Hardy stated that this lot should be included in the study area, allowing the Cecil Group to comment.

Mr. Holmes made a motion to request an opinion from the Cecil Group and to ask them to include the subject lot in the study area. Mr. Hardy seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes and Mr. Moniz voted in favor of the motion.

b. Recommendation to the Town Council / Request Public Hearing

The Chairman stated that at the joint meeting with the Town Council (November 19, 2013) additional parcels to the north of the Bliss Four Corners study area had been discussed. These lots were located between Stafford Road and Old Stafford Road. Ms. Guimond noted that these lots already contained businesses. Ms. Eva stated that they were pre-existing non-conforming and Ken Buckland of the Cecil Group had commented on them at the joint meeting with the Town Council. The Chairman noted that the lots could be rezoned to General Commercial. Mr. Hardy suggested that the Board should try to move away from non-conforming uses and to bring long term businesses into a conforming status. Ms. Eva stated that enforcement had been an issue in that area. It was decided that this issue would be revisited at a future date.

2. Update: Stone Bridge Abutment Repairs

Ms. Michaud stated that the Stone Bridge plan was under review by RIDOT.

3. Comprehensive Community Plan Update: Discussion Regarding Consultant Selection Committee – Recommendation to Town Council

The Board agreed by consensus that the selection committee should include Mr. Hughes and Ms. Michaud as well as two other members of the Comprehensive Plan Advisory Committee.

D. Miscellaneous

- 1. Tiverton Business Forum – February 11 / 6:00 – 8:00 P.M. – Location: Tiverton Four Corners Meeting House – 3850 Main Road – Hosted by Town Council and EDC** This item was placed on the agenda as an announcement only with no discussion.

3. Tiverton Planning Board

- A. Solicitor's Report (Site Ready Appeal)** Mr. Ruggiero stated that the next meeting of the Zoning Board for this petition was scheduled for March 25, 2014. He added that he was working on his memorandum to the Zoning Board acting as the Planning Board of Appeals and that he would forward the completed document to the Planning Board.

B. Earth Removal – Draft Revisions to Town Code Chapter 38 – Review and Recommend to the Town Council

1. Comments from Peter Moniz Distributed

A comparison chart prepared by Ms. Michaud was distributed. It contained elements of the regulations from other comparable Rhode Island towns. Mr. Moniz's comments were reviewed. Ms. Michaud expressed concern about references to historic stone walls. The Chairman asked how the age of the walls would be determined. Mr. Moniz replied that the age can be determined through the materials. Ms. Cote asked who would make a determination. Mr. Moniz replied that he did not know. A discussion ensued. Mr. Hardy agreed that historic stone walls should be a topic of discussion, noting that the Conservation Commission had drafted an ordinance in the past. He suggested that this could be an issue for the Historic Preservation Advisory Board, who could share their work with the Conservation Commission and the Planning Board. Mr. Hardy opined that the stone wall discussion does not belong in the Earth Removal Ordinance. Ms. Eva suggested that it should be included in the Comprehensive Community Plan and thought there was already reference to stone walls.

Mr. Moniz's other comments were reviewed and incorporated as appropriate. Ms. Paiva noted that Gloucester, RI requires a four (4) foot separation to groundwater. The Board agreed by consensus that Gloucester's language should be added as appropriate.

Tricia Hilton, Vice Chairman of the Conservation Commission, stated that she was present to share concerns regarding the groundwater issue. She expressed concern regarding potential impacts on well water users, as well as the potential impacts to Stafford Pond. Ms. Hilton noted that quarrying operations that hit groundwater could have a wide reaching effect on well water within the Town adding that the lack of filtration for groundwater recharge was a concern. She suggested that there should be swift and immediate remediation required.

The license term was discussed. A biannual license was suggested, with an annual surety review. Ms. Michaud agreed to type up the amendments and circulate a new draft prior to the next meeting.

C. Quarry Licenses – Status of Applications Ms. Michaud noted that no applications had been filed.

D. Correspondence There was no correspondence.

E. Miscellaneous

- 1. Wind Energy Generation Facilities – Update from Subcommittee** Mr. Holmes stated that the subcommittee had not met.
- 2. Watershed Protection Overlay District Update: Conservation Commission Subcommittee** Mr. Hardy stated that an organizational meeting was scheduled for Thursday, February 6th at 6:30 P.M. at Town Hall. He noted that all were invited.
- 3. Unaccepted Streets: Review of S. Berlucchi's Memo dated January 16, 2014: Discussion Regarding Completion of Subdivisions** Ms. Eva stated that she had requested Ms. Michaud to include this item on the agenda. Ms. Eva noted that there were several old sureties on the books, and that

unfinished / unaccepted roads would continue to deteriorate. She requested a copy of the road sureties held by the Board. She also asked if there was a way to require action to complete the roads or to increase the surety amount. Mr. Ruggiero replied that surety amounts could not be increased. Ms. Eva urged the Board members not to reduce sureties on unfinished subdivisions or start calling the bonds.

4. Construction Specifications: Updates Recommended by S. Berlucchi Mr. Berlucchi was not present. This item was continued to the March 4 meeting.

5. The Chairman noted that he had presented the **Planning Board's budget** to the Budget Committee. He also added that the Town Council had expressed its intent to advertise for a planner, which had been a topic of discussion at the Budget Committee meeting. Ms. Eva stated that she had also attended the Budget Committee meeting and had stated that no discussion or vote regarding a planner had been taken by the Planning Board this year. She also noted that Town Council had changed the job qualifications from what the Board had recommended and discussed a year or so ago. A short discussion ensued.

F. Approval of Minutes: Approval of minutes was continued by the Chairman to the March 4, 2014 meeting.

November 5, 2013

November 19, 2013 (Special Meeting)

December 3, 2013

January 7, 2014

G. Adjournment: Mr. Holmes made a motion to adjourn. The motion was seconded by Mr. Hardy. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Guimond, Mr. Holmes and Mr. Moniz voted in favor of the motion. The meeting adjourned at 9:58 P.M.

(Italicized words represent corrections made on the approved date.)

Submitted by: _____
Kate Michaud, Clerk

Approval Date: April 1, 2014